

EXHIBIT 5
DATE 11/15/07
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Title 49, Code of Federal Regulations, Part 384 - HB
State Compliance with Commercial Driver's License Program

§384.225 Record of violations.

The State must:

- (a) *CDL holders.* Record and maintain as part of the driver history **all convictions**, disqualifications and other licensing actions for violations of any State or local law relating to motor vehicle traffic control (other than a parking violation) committed in any type of vehicle.
- (b) *A person required to have a CDL.* Record and maintain as part of the driver history **all convictions**, disqualifications and other licensing actions for violations of any State or local law relating to motor vehicle traffic control (other than a parking violation) committed while the driver was operating a CMV.
- (c) Make driver history information required by this section available to the users designated in paragraph (e) of this section, or to their authorized agent, within 10 days of:
 - (c)(1) Receiving the conviction or disqualification information from another State; or
 - (c)(2) The date of the conviction, if it occurred in the same State.
- (d) Retain on the driver history record all convictions, disqualifications and other licensing actions for violations **for at least 3 years or longer as required under §384.231(d).**

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§384.226 Prohibition on masking convictions.

The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL driver's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (except a parking violation) from appearing on the driver's record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

§384.231 Satisfaction of State disqualification requirement.

- (a) *Applicability.* The provisions of §§384.203, 384.206(b), 384.210, 384.213, 384.215 through 384.219, 384.221 through 384.221, and 384.231 of this part apply to the State of licensure of the person affected by the provision. The provisions of §384.210 of this part also apply to any State to which a person makes application for a transfer CDL.
- (b) *Required action.* (1) *CDL holders.* A State must satisfy the requirement of this part that the State disqualify a person who holds a CDL by, at a minimum, suspending, revoking, or canceling the person's CDL for the applicable period of disqualification.
- (b)(2) *A person required to have a CDL.* A State must satisfy the requirement of this subpart that the State disqualify a person required to have a CDL who is convicted of an offense or offenses necessitating disqualification under §383.51 of this subchapter. At a minimum, the State must

implement the limitation on licensing provisions of §384.210 and the timing and recordkeeping requirements of paragraphs (c) and (d) of this section so as to prevent such a person from legally obtaining a CDL from any State during the applicable disqualification period(s) specified in this subpart.

(c) *Required timing.* The State must disqualify a driver as expeditiously as possible.

(d) *Recordkeeping requirements.* The State must conform to the requirements of the October 1998 edition of the AAMVAnet, Inc.'s "Commercial Driver License Information System (CDLIS) State Procedures," Version 2.0. (Incorporated by reference, see § 384.107.) These requirements include the maintenance of such driver records and driver identification data on the CDLIS as the FMCSA finds are necessary to the implementation and enforcement of the disqualifications called for in §§384.215 through 384.219, and 384.221 through 384.224 of this part.

Subpart D—Consequences of State Noncompliance

§384.401 Withholding of funds based on noncompliance.

(a) *Following the first year of noncompliance.* A State is subject to both of the following sanctions:

(a)(1) An amount equal to five percent of the Federal-aid highway funds required to be apportioned to any State under each of sections 104(b)(1), (b)(3), and (b)(4) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's first year of noncompliance under this part.

(a)(2) The Motor Carrier Safety Assistance Program (MCSAP) grant funds authorized under section 103(b)(1) of the Motor Carrier Safety Improvement Act of 1999 (Public Law 106-159, 113 Stat. 1754) shall be withheld from a State on the first day of the fiscal year following the fiscal year in which the FMCSA determined that the State was not in substantial compliance with subpart B of this part.

(b) *Following second and subsequent year(s) of noncompliance.* A State is subject to both of the following sanctions:

(b)(1) An amount equal to ten percent of the Federal-aid funds required to be apportioned to any State under each of sections 104(b)(1), (b)(3), and (b)(4) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's second or subsequent year of noncompliance under this part.

(b)(2) The Motor Carrier Safety Assistance Program (MCSAP) grant funds authorized under section 103(b)(1) of the Motor Carrier Safety Improvement Act of 1999 (Public Law 106-159, 113 Stat. 1753) shall be withheld from a State on the first day of the fiscal year following the fiscal year in which the FMCSA determined that the State had not returned to substantial compliance with subpart B of this part.